

FILED

McGUIREWOODS LLP

Michael D. Mandel, Esq. (SBN 216934)

Email: mmandel@mcguirewoods.com

Christopher A. Killens, Esq. (SBN 254466)

Email: ckillens@mcguirewoods.com

1800 Century Park East, 8th Floor

Los Angeles, California 90067

Telephone: (310) 315-8200

Facsimile: (310) 315-8210

2014 FEB 12 PM 1:10

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

Attorneys for Defendant

ACOSTA, INC. which will do business in

California as ACOSTA SALES AND

MARKETING

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

KAREN BARRICK-ALVAREZ,

Plaintiff,

vs.

ACOSTA, INC., which will do business
in California as ACOSTA SALES AND
MARKETING; ACOSTA SALES
AND MARKETING; ACOSTA INC.;
and DOES 1 through 100, Inclusive

Defendants.

[Orange County Superior Court Case
No. 30-2013-00692554-CU-OE-CJC]

**DEFENDANT ACOSTA, INC.'S
NOTICE OF REMOVAL OF CIVIL
ACTION FROM STATE COURT**

Filed under Separate Cover:

Declaration of Kathy Derenda

Complaint Filed: December 12, 2013

Complaint Served: January 13, 2014

COPY

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**
2 **CENTRAL DISTRICT OF CALIFORNIA:**

3 PLEASE TAKE NOTICE that Defendant Acosta, Inc. ("Defendant" or
4 "Acosta"), by and through its counsel, hereby removes the above-entitled action
5 from the Superior Court of the State of California in and for the County Orange (the
6 "State Court"), in which the action is currently pending, to the United States District
7 Court for the Central District of California on the grounds that this Court has
8 jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441,
9 28 U.S.C. § 1446 and all other applicable bases for removal. In support of this
10 Notice of Removal, Defendant avers as follows:

11
12 **PLEADING AND PROCEDURES**

13 1. On or about December 12, 2013, Plaintiff Karen Barrick-Alvarez
14 ("Plaintiff") commenced this civil action against Acosta captioned *Barrick-Alvarez*
15 *v. Acosta, Inc., et al.*, Case No. 30-2013-00692554-CU-OE-CJC in the State Court
16 by filing the Complaint (the "Complaint"). Attached hereto as Exhibit A is a true
17 and correct copy of the Complaint.

18 2. On or about January 13, 2014, Acosta, through its registered agent for
19 service of process, was personally served with a copy of the Complaint.

20 3. The following documents are also part of the process, pleadings and
21 orders on file in the State Court Action:

22 Exhibit B: Summons on Complaint

23 Exhibit C: Civil Case Cover Sheet

24 Exhibit D: Notice of Case Assignment

25 Exhibit E: Proof of Service of Summons

26 Exhibit F: Notice of Case Management Conference
27
28

1 4. Acosta is informed and believes that the aforementioned documents
2 and exhibits constitute all of the process, pleadings, and orders on file in the State
3 Court action.

4 5. Acosta is informed and believes and thereon alleges that no such
5 business entity exists that is named "Acosta Sales and Marketing." *See* Declaration
6 of Kathy Derenda ("Derenda Decl."), ¶ 6. Rather, Acosta Sales and Marketing is a
7 trade name used by Acosta, Inc. *Id.* Moreover, Acosta is informed and believe and
8 thereon alleges that there has been no service of process upon "Acosta Sales and
9 Marketing." Accordingly, Acosta is the only named defendant whose consent is
10 needed for this removal.

11 6. Acosta is informed and believes that there has been no service of
12 process upon any "Does," which are fictitious defendants and therefore disregarded
13 for the purpose of this removal. 28 U.S.C. § 1441(a). Accordingly, Acosta is the
14 only named defendant whose consent is needed for this removal.

15
16 **TIMELINESS OF REMOVAL**

17 7. This action has not previously been removed to federal court.

18 8. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b)
19 which provides that such Notices "shall be filed within thirty days after the receipt
20 by the defendant, through service or otherwise, of a copy of the initial pleading
21 setting forth the claim upon which such action or proceeding is based." Acosta has
22 filed this Notice of Removal within thirty days of January 13, 2014, the date Acosta
23 was first served with the Summons and Complaint in this action.

24 ///

25 ///

26 ///

REMOVAL JURISDICTION – DIVERSITY

9. This Court has jurisdiction over this action under 28 U.S.C. § 1332(a), 28 U.S.C. § 1441(b), and all other applicable bases for removal.

10. As required by 28 U.S.C. § 1441, Acosta seeks to remove this case to the United States District Court for the Central District of California which is the District Court embracing the place where the State Court Action has been filed.

11. In accordance with 28 U.S.C. § 1446(d), Acosta will provide contemporaneous written notice of this Notice of Removal to all adverse parties and to the Clerk of the State Court.

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), and is one which may be removed to this Court by Acosta, because (1) there is complete diversity of citizenship between Plaintiff and Acosta; and (2) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

CITIZENSHIP OF PARTIES

13. **Plaintiff's Citizenship.** Plaintiff is, and at all times relevant to this Complaint, has been, a resident and citizen of the State of California. *See* Complaint [Exh. A], ¶ 1. Further, Acosta is informed and believes and thereon alleges that Plaintiff has the intent to remain in California.

14. **Acosta's Citizenship.** As shown on the California Secretary of State's Business Entity website, Acosta is a Delaware corporation with its headquarters and principal place of business in Jacksonville, Florida:

///

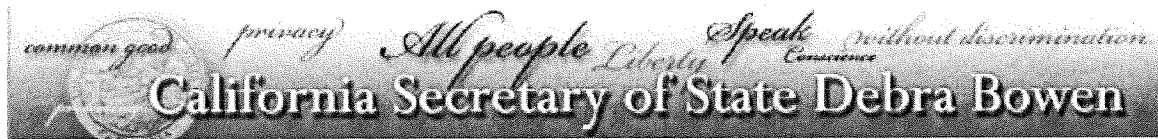
///

///

///

///

///



Secretary of State

Administration

Elections

Business Programs

Political Reform

Archives

Registries

Business Entities (BE)**Online Services**

- E-File Statements of Information for Corporations
- Business Search
- Processing Times
- Disclosure Search

Main Page**Service Options****Name Availability****Forms, Samples & Fees****Statements of Information**
(annual/biennial reports)**Filing Tips****Information Requests**
(certificates, copies & status reports)**Service of Process****FAQs****Contact Information****Resources**

- Business Resources
- Tax Information
- Starting A Business

Customer Alerts

- Business Identity Theft
- Misleading Business Solicitations

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, February 7, 2014. Please refer to **Processing Times** for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	ACOSTA, INC. WHICH WILL DO BUSINESS IN CALIFORNIA AS ACOSTA SALES AND MARKETING
Entity Number:	C3516546
Date Filed:	11/02/2012
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	6600 CORPORATE CTR PKWY
Entity City, State, Zip:	JACKSONVILLE FL 32216
Agent for Service of Process:	CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERVICE
Agent Address:	2710 GATEWAY OAKS DR STE 150N
Agent City, State, Zip:	SACRAMENTO CA 95833

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code **section 2114** for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to **Name Availability**.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to **Information Requests**.
- For help with searching an entity name, refer to **Search Tips**.
- For descriptions of the various fields and status types, refer to **Field Descriptions and Status Definitions**.

[Modify Search](#) [New Search](#) [Printer Friendly](#) [Back to Search Results](#)

See URL at <http://kepler.sos.ca.gov/cbs.aspx> (last visited on February 11, 2014). See also Derenda Decl., ¶ 5. At its corporate headquarters, Acosta's officers direct, control and coordinate its activities, and the majority of its executive and administrative functions are performed there. *Id.* Thus, at least as of the date of the filing of this Notice of Removal, Acosta is not a citizen of the State of California but, is a citizen of the States of Delaware and Florida for the purpose of determining jurisdiction. See 28 U.S.C. § 1332(c)(1) (for diversity purposes, "[a] corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business"); see also *Hertz Corp. v. Friend*, 130 S.Ct. 1181, 1192 (2010) (for purposes of removal, the "principal place of

1 business” is determined by the “nerve center” test whereby an entity is deemed to be
2 a citizen of the State where its officers direct, control and coordinate activities.)

3 15. Because Plaintiff is a citizen of the state of California and Acosta is a
4 citizen of Delaware and Florida, complete diversity exists amongst the parties
5 pursuant to 28 U.S.C. § 1332(a)(1).

6 7 AMOUNT IN CONTROVERSY

8 16. An action may be removed if the defendant establishes, by a
9 preponderance of the evidence, that the aggregate amount in controversy exceeds
10 the jurisdictional amount. *See Abrego v. Dow Chemical Co.*, 443 F.3d 676, 683
11 (9th Cir. 2006); *Bank of Calif. Nat’l Ass’n v. Twin Harbors Lumber Co.*, 465 F.2d
12 489, 491 (9th Cir. 1972). To satisfy the preponderance of the evidence test, a
13 defendant must provide evidence that “it is more likely than not” that the amount in
14 controversy is satisfied. *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404
15 (9th Cir. 1996).

16 17. In determining whether the amount in controversy exceeds \$75,000.00,
17 the Court must presume that Plaintiff will prevail on each and every one of her
18 claims. *See, e.g., Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F.
19 Supp. 993, 1001 (C.D. Cal. 2002) (citing *Burns v. Windsor Inc.*, 31 F.3d 1092 (11th
20 Cir. 1994) (the amount-in-controversy analysis presumes that “plaintiff prevails on
21 liability”)). In addition, the Court may look beyond the complaint to determine
22 whether the amount in controversy is met. *See Abrego v. Dow Chemical Co.*, 443
23 F.3d 676, 690 (9th Cir. 2006).

24 18. The amount in controversy may include general and special
25 compensatory damages and attorneys’ fees which are recoverable by statute. *See*
26 *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998); *Goldberg v.*
27 *CPC Int’l, Inc.*, 678 F.2d 1365, 1367 (9th Cir. 1982) (attorneys’ fees may be taken
28 into account to determine jurisdictional amount). The amount in controversy may

1 also include punitive damages and emotional distress. *Gibson v. Chrysler Corp.*,
 2 261 F.3d 927, 945 (9th Cir. 2001); *Kroske v. U.S., BankCorp.*, 432 F.3d 976, 980
 3 (9th Cir. 2005).

4 19. Here, although Acosta denies any liability as to Plaintiff's claims,
 5 based on the allegations, claims, and prayer for relief set forth in the Complaint, the
 6 amount in controversy in this action exceeds the sum of \$75,000.

7 20. **Unpaid Wages.** Plaintiff alleges that Acosta failed to pay her straight-
 8 time wages and overtime wages in violation of the California Labor Code. But
 9 Plaintiff does not allege any specific amounts of unpaid regular time or unpaid
 10 overtime. Rather, the Complaint alleges only that, since December 2010, "Plaintiff
 11 worked *many hours* of regular time and/or overtime for which Plaintiff never
 12 received compensation." Complaint [Exh. A] at ¶ 11 (emphasis added). At all
 13 times relevant to this action, Plaintiff earned a base hourly rate of pay of \$12.00 per
 14 hour. *See* Derenda Decl., ¶ 7. For purposes of determining the value of Plaintiff's
 15 claims for unpaid regular time and overtime wages, based upon Plaintiff's allegation
 16 of working "many hours" of unpaid regular time and overtime, Acosta estimates that
 17 Plaintiff will allege that she worked an average of at least ten (10) regular time
 18 hours and ten (10) overtime hours a week for which she was not compensated.
 19 Accordingly, during the 156-week period from December 2010 until December
 20 2013, Plaintiff's estimated damages based on unpaid regular time and overtime is
 21 approximately **\$46,800** ($[\$12.00 \text{ per hour} \times 10 \text{ hours per week} \times 156 \text{ weeks}] +$
 22 $[\$12.00 \text{ per hour} \times 10 \text{ hours per week} \times 1.5 \text{ overtime premium} \times 156 \text{ weeks}]$).¹

23
 24 ¹ Plaintiff is a current employee of Acosta. To the extent that she claims that
 25 the alleged violations are ongoing and continue through the date of a judgment
 26 being entered in this action (assuming that occurs one year from the date of the
 27 filing of this action), her estimated damages using these assumptions would be an
 28 additional **\$15,600** ($[\$12.00 \text{ per hour} \times 10 \text{ hours per week} \times 52 \text{ weeks}] +$
 $[\$12.00 \text{ per hour} \times 10 \text{ hours per week} \times 1.5 \text{ overtime premium} \times 52 \text{ weeks}]$).

21. **Business Expenses.** Plaintiff alleges that since December 2010, Acosta has failed to indemnify her for business expenses. *See* Complaint [Exh. A] at ¶¶ 16-19. The Complaint does not allege any particular amount of damages related to this claim. Rather, the Complaint simply alleges that “Plaintiff was forced to incur charges and pay for such items and articles including, but not limited to, mileage, internet connection(s), supplies, cell phone and cell phone plans and others in order to perform Plaintiff’s duties.” Complaint [Exh. A] at ¶ 16.

a. **Mileage.** Although Acosta contends that Plaintiff has been fully and properly reimbursed for all of her business-related mileage, Plaintiff alleges that she was forced to incur charges for mileage for which Acosta promised to reimburse her for, but failed to do so. According to Acosta’s records, Plaintiff submitted mileage reimbursement requests for 20,654 business-related miles between 2011 and 2013. Derenda Decl., ¶ 8. Below is a summary of the mileage that Plaintiff submitted to Acosta from 2011 through 2013 and what Plaintiff could potentially be owed using the Internal Revenue Service’s mileage reimbursement rates:²

///

///

///

///

///

///

² California law requires only that employees be reimbursed for their actual expenses reasonably and necessarily incurred. Because of difficulties in calculating the actual expenses incurred in connection with the use of a personal vehicle for business purposes, the IRS rate is often used as a proxy. However, it is by no means the only method for calculating the amount to be reimbursed for use of a personal vehicle. Moreover, use of the IRS rate can (and often does) overstate the true amount of expense actually incurred.

Year	Mileage Submitted by Plaintiff	Amount Owed Using IRS Mileage Reimbursement Rates ³
2011	4,933	\$2,515.83
2012	5,936	\$3,294.48
2013	9,785	\$5,528.53

Based on the foregoing, Acosta anticipates that the amount in controversy is no less than **\$11,338.84** (\$2,515.83 + \$3,294.48 + \$5,528.53) for alleged unreimbursed mileage during the relevant time period.

b. Internet Connection, Supplies, Cell Phones, and Cell Phone Plans. Plaintiff does not allege the amount of expenses she incurred in connection with her work for Acosta but for which she was not reimbursed. Nor does she specify what type of “supplies” she claims have not been reimbursed. For purposes of this removal, Acosta conservatively anticipates that Plaintiff will allege at least \$100.00 per month in total expenses for cell phones, cell phone plans, supplies and other miscellaneous expenses. Based on this conservative estimate, the total amount in controversy for Plaintiff’s claim for alleged unreimbursed expenses for Internet connection, supplies, cell phone, and cell phone plan is no less than **\$3,600.00** (\$100.00 x 36 months).

22. **Medical Expenses.** Plaintiff alleges that, as a “legal result of the acts and omissions of the Defendants, and each of them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs,” and that “Plaintiff

³ The IRS mileage reimbursement rates for 2011-2013 were 51 cents, 55.5 cents and 56.5 cents per mile, respectively. See <http://www.irs.gov/uac/IRS-Announces-2011-Standard-Mileage-Rate>; <http://www.irs.gov/uac/IRS-Announces-2012-Standard-Mileage-Rates,-Most-Rates-Are-the-Same-as-in-July>; <http://www.irs.gov/uac/Newsroom/2013-Standard-Mileage-Rates-Up-1-Cent-per-Mile-for-Business,-Medical-and-Moving>.

1 will in the future be forced to incur additional expenses of the same nature, all in an
 2 amount which is at present unknown.” Complaint [Exh. A], ¶¶ 22, 33, Prayer Item
 3 No. 2. Defendant disputes that Plaintiff has suffered any such damages, that
 4 Defendant caused any such damages, or that any such damages are recoverable in
 5 this action. Nevertheless, for purposes of this removal, the amount of any and all
 6 such medical expenses must be considered for determining the amount in
 7 controversy. Defendant conservatively estimates that the amount in controversy for
 8 Plaintiff’s past and future medical expenses is no less than **\$10,000.**

9 **23. Loss of Earnings.** Plaintiff also alleges that, as a result of Defendant’s
 10 conduct, she “will be incapacitated and unable to perform Plaintiff’s usual work for
 11 an indefinite period of time in the future, all to Plaintiff’s damage in an amount
 12 which is at present unascertained.” Complaint [Exh. A], ¶¶ 23, 34, Prayer Item No.
 13 3. Defendant disputes that Plaintiff has suffered any loss of earnings, that
 14 Defendant caused any loss of earnings, or that any such loss of earnings are
 15 recoverable in this action. Nevertheless, for purposes of this removal, the amount of
 16 any and all such loss of earnings must be considered for determining the amount in
 17 controversy. Over the course of her employment with Defendant from December
 18 2010 through the present, Plaintiff reported working an average of approximately 25
 19 hours per week. *See* Derenda Decl., ¶ 7. Assuming that this case proceeds to trial
 20 and a judgment is entered in Plaintiff’s favor one year from the date that she filed
 21 this lawsuit, her estimated loss of earnings through the date of judgment would be
 22 **\$15,600.00** (\$12.00 per hour x 25 hours per week x 52 weeks).

23 **24. Emotional Distress.** Plaintiff also alleges that, as a result of
 24 Defendant’s conduct, she has suffered and continues to suffer “severe and
 25 permanent emotional and mental distress and anguish, humiliation, embarrassment,
 26 fright, shock, pain, discomfort and anxiety.” Complaint [Exh. A], ¶¶ 24, 35, Prayer
 27 Item No. 1. Defendant disputes that Plaintiff has suffered any such emotional
 28 distress, that Defendant caused any emotional distress, or that damages for

emotional distress are recoverable in this action. Nevertheless, for purposes of this removal, the amount attributable to emotional distress must be considered for determining the amount in controversy. Emotional distress damages awards in employment actions frequently exceed the \$75,000.00 amount in controversy by themselves. *See, e.g., Lemke v. BCI Coca-Cola of Los Angeles*, 2004 Jury Verdicts LEXIS 46138 (**\$135,000.00** emotional distress damages awarded in wrongful termination action); *Anderson v. Amer. Airlines, Inc.*, 2008 Mealey's CA Jury Verdicts & Settlements 2008 (**\$1 million** emotional distress award in federal wrongful termination action); *Grodzik v. Calif. Cons. Corps.*, 2010 Jury Verdicts LEXIS 33153 (**\$100,000.00** emotional distress award to plaintiff on retaliation claims). In *Kroske, supra*, 432 F.3d at 980, the Ninth Circuit held that the trial court properly estimated \$25,000 for emotional distress damages for purposes of satisfying the amount-in-controversy requirement where the plaintiff's wage loss was only \$55,000. Accordingly, as in *Kroske*, Defendant conservatively estimates that the **minimum** value of Plaintiff's emotional distress claims will be at least **\$25,000.00** for purposes of calculating the amount in controversy in this action.

25. **Punitive Damages.** Plaintiff also seeks punitive and/or exemplary damages in connection with her claims. *See* Complaint [Exh. A], ¶¶ 26, 37 and Prayer Item No. 13. The Court may also consider punitive and/or exemplary damages in determining the amount in controversy where they are recoverable as a matter of law. *See Gibson v. Chrysler Corp.*, 261 F.3d 927, 945 (9th Cir. 2001). In *State Farm Mut. Automobile Ins. Co. v. Campbell*, 538 U.S. 403, 425 (2003), the United States Supreme Court held that the longstanding historical practice of setting punitive damages at two, three, or four times the size of compensatory damages, while "not binding," is "instructive," and that "[s]ingle-digit multipliers are more likely to comport with due process." Utilizing the median ratio of 3:1 that *State Farm* found to be "instructive," and basing any potential punitive damages award solely on the alleged unpaid wages, the potential punitive damages amount in

1 controversy is **\$337,016.52** ($[\$46,800.00 + \$11,338.84 + \$3,600.00 + \$10,000.00 +$
2 $\$15,600.00 + \$25,000.00] \times 3$).

3 26. **Attorney's Fees.** Plaintiff also seeks an award of attorneys' fees. *See*
4 Complaint [Exh. A], ¶¶ 14, 27, 38 and Prayer Item Nos. 5, 7, 8, and 10. Where
5 attorneys' fees are authorized by statute, they are appropriately part of the
6 calculation of the amount in controversy for purposes of removal. *See Kroske,*
7 *supra*, 432 F.3d at 980; *Johnson v. America Online, Inc.*, 280 F.Supp.2d 1018 (N.D.
8 Cal. 2003). Furthermore, the value placed on such fees is based on what would
9 "necessarily accrue until the action is resolved." *Simmons, supra*, 209 F.Supp.2d at
10 1034 (noting 11 years ago that "attorneys' fees in individual discrimination cases
11 often exceed the damages," and when viewed in combination with the pursuit of
12 compensatory, punitive and emotional distress damages like those Plaintiff is
13 pursuing here, the jurisdictional minimum is "clearly satisfied"). Although
14 Defendant disputes that Plaintiff is entitled to any attorneys' fees in this action, such
15 fees are properly included in the amount-in-controversy calculation where, as here,
16 they are expressly pleaded in the Complaint. The Court's own knowledge and
17 experience in ruling on prevailing plaintiffs' motions for attorneys' fees in litigation
18 such as this action should indicate that it is "more likely than not" that the Plaintiff
19 will be seeking an attorneys' fees award of at least **\$75,000.00** if this case is litigated
20 to judgment in a jury trial. Based on its own litigation experience, Defendant also
21 reasonably estimates at this juncture that its own attorneys' fees to defend this action
22 through a jury trial and post-trial motions will exceed \$75,000.

23 27. In sum, the amount in controversy in this action is conservatively
24 estimated, based on the information in the Complaint and the information presently
25 known to Acosta, as follows:

26 ///

27 ///

28 ///

<u>DAMAGES</u>	<u>CALCULATION</u>	<u>TOTAL</u>
Unpaid Wages (exclusive of benefits and interest)	156 Weeks of ten unpaid regular time hours and ten unpaid overtime hours per week	\$46,800.00
Mileage Reimbursement	Based on the IRS mileage reimbursement rates for 2011 through 2013 and the mileage that Plaintiff reported to Acosta	\$11,338.84
Internet Connection, Supplies, Cell Phones, and Cell Phone Plans	Conservative estimate of \$100 per month	\$3,600.00
Medical Expenses	Conservative estimate of \$10,000	\$10,000.00
Loss of Earnings	One year of pay at Plaintiff's current hourly rate for 21 hours per week	\$15,600.00
Emotional Distress	Conservative estimate based on review of jury verdicts and case law	\$25,000.00
Punitive Damages	Three times the total compensatory damages per <i>State Farm</i>	\$337,016.52
Statutory Attorneys' Fees	Conservative estimate based on prior litigation experience	\$75,000.00
<u>GRAND TOTAL</u>	(Compensatory Damages, Punitive Damages and Attorneys' Fees)	<u>\$524,355.36</u>

28. Because there is complete diversity of citizenship between Plaintiff and Acosta and because Plaintiff seeks damages in excess of the \$75,000.00 jurisdictional threshold, Acosta may remove this action pursuant to 28 U.S.C.

§§ 1332 and 1441(b). This action is one over which the United States District Courts have original jurisdiction by reason of the diversity of citizenship of the parties. Furthermore, this Notice of Removal is timely as it is being filed less than thirty (30) days after Acosta received a copy of Plaintiff's Complaint.

29. Nothing in this Removal Notice is intended or should be construed as any type of express or implied admission by Acosta of any fact, of any validity or merits of any of Plaintiff's claims, causes of action, and allegations, or of any liability for the same, all of which are hereby expressly denied, or as any type of express or implied waiver or limitation of any of Acosta's rights, claims, remedies, and defenses in connection with this action (including without limitation issues relating to personal jurisdiction and/or service of process), all of which are hereby fully and expressly reserved.

VENUE

30. Venue lies in this Court because Plaintiff's action is pending in this district and division. See 28 U.S.C. § 1441(a).

WHEREFORE, Defendant Acosta, Inc. respectfully requests that the above-captioned action now pending in the State Court be removed to this United States District Court.

DATED: February 12, 2014

McGUIREWOODS LLP

By: 

Michael D. Mandel, Esq.

Christopher A. Killens, Esq.

Attorneys for Defendant

ACOSTA, INC.

PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1800 Century Park East, 8th Floor, Los Angeles, CA 90067.

On February __, 2014, I served the following document(s) described as **[INSERT TITLE OF DOCUMENT]** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

- ☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, CA, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))
- ☐ **BY FACSIMILE:** At approximately __, I caused said document(s) to be transmitted by facsimile pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was 310.315.8210. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the transmission was complete and without error.
- ☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility regularly maintained by the overnight service carrier, or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier with delivery fees paid or provided for, addressed to the person(s) served hereunder. (C.C.P. § 1013(d)(e))
- ☐ **BY HAND DELIVERY:** I delivered such envelope(s) by hand to the office of the addressee(s). (C.C.P. § 1011(a)(b))
- ☐ **BY PERSONAL SERVICE:** I personally delivered such envelope(s) to the addressee(s). (C.C.P. § 1011)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February __, 2014, at Los Angeles, CA.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

12/12/2013 at 04:01:40 PM

Clerk of the Superior Court
By Jaime Cordero, Deputy Clerk

MARCUS A. MANCINI, ESQ. (State Bar No.146905)
TIMOTHY J. GONZALES, ESQ. (State Bar No. 234923)
MICHAEL R. FOSTAKOWSKY, ESQ.(State Bar No. 258649)
MEGHAN E. GEORGE, ESQ. (State Bar No. 274525)
MANCINI & ASSOCIATES
A Professional Law Corporation
15303 Ventura Boulevard, Suite 600
Sherman Oaks, CA 91403

(818) 783-5757 Phone
(818) 783-7710 Fax

Attorneys for Plaintiff **KAREN BARRICK-ALVAREZ**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

KAREN BARRICK-ALVAREZ,
Plaintiff,

vs.

ACOSTA, INC. which will do business in
California as **ACOSTA SALES AND**
MARKETING;
ACOSTA SALES AND MARKETING;
ACOSTA, INC.;
and **DOES 1 through 100, Inclusive,**
Defendants.

Case No. 30-2013-00692554-CU-OE-CJC

PLAINTIFF'S COMPLAINT FOR
DAMAGES:

- (1) **VIOLATION OF CALIFORNIA**
LABOR CODE §§200 ET. SEQ.
(Failure to Pay Wages and/or
Overtime Violations);
- (2) **FAILURE TO INDEMNIFY**
AND PAY COSTS INCURRED
BY EMPLOYEE IN
VIOLATION OF CALIFORNIA
LABOR CODE §2802;
- (3) **VIOLATION OF CALIFORNIA**
BUSINESS AND PROFESSIONS
CODE §17200 ET. SEQ. (Unfair
Business Practices).

JURY TRIAL DEMANDED

UNLIMITED JURISDICTION
DAMAGES IN EXCESS OF
\$25,000.00

Judge Frederick P. Horn

COMES NOW Plaintiff **KAREN BARRICK-ALVAREZ** (hereinafter referred to as
"AMBRIZ" or "Plaintiff") and complains against the above-named Defendants and for causes of
action against the Defendants, and each of them, alleges as follows:

I.

FIRST CAUSE OF ACTION

(For Failure to Pay Wages/Overtime Compensation in Violation of Labor Code §§200 et seq.,

Against All DEFENDANTS and DOES 1 -100, Inclusive)

1. At all times mentioned herein, Plaintiff was, and now is, an individual residing in the County of Los Angeles, State of California.

2. Plaintiff is informed and believes, and thereon alleges, that at all times relevant herein, Defendant ACOSTA, INC. which will do business in California as ACOSTA SALES AND MARKETING (hereinafter referred to collectively with all other Defendants as "Defendants") were, and now are, valid businesses of form unknown duly organized and existing under the laws of the State of California, having its principal place of business in the County of Orange, State of California.

3. Plaintiff is informed and believes, and thereon alleges, that at all times relevant herein, Defendant ACOSTA SALES AND MARKETING (hereinafter referred to collectively with all other Defendants as "Defendants") were, and now are, valid businesses of form unknown duly organized and existing under the laws of the State of California, having its principal place of business in the County of Orange, State of California.

4. Plaintiff is informed and believes, and thereon alleges, that at all times relevant herein, Defendant ACOSTA, INC. (hereinafter referred to collectively with all other Defendants as "Defendants") were, and now are, valid businesses of form unknown duly organized and existing under the laws of the State of California, having its principal place of business in the County of Orange, State of California.

5. Plaintiff is ignorant of the true names and capacities, whether corporate, associate, successor, individual or otherwise, of Defendants sued herein as DOES 1 - 100, Inclusive, and therefore sues said Defendants, and each of them, by such fictitious names. Plaintiff will seek leave of court to amend this Complaint to assert the true names and capacities of the fictitiously named Defendants when the same have been ascertained. Plaintiff is informed and believes, and thereon alleges, that each Defendant designated as "DOES" herein is legally responsible for the events,

1 happenings, acts, occurrences, indebtedness, damages and liabilities hereinafter alleged and caused
2 injuries and damages proximately thereby to the plaintiff, as hereinafter alleged.

3 6. Plaintiff is informed and believes, and thereon alleges, that at all times relevant
4 herein, each Defendant designated, including DOES 1-100, herein was the agent, managing agent,
5 principal, owner, partner, joint venturer, representative, supervisor, manager, servant, employee
6 and/or co-conspirator of each of the other Defendants, and was at all times mentioned herein acting
7 within the course and scope of said agency and employment, and that all acts or omissions alleged
8 herein were duly committed with the ratification, knowledge, permission, encouragement,
9 authorization and consent of each Defendant designated herein.

10 7. At all times herein mentioned, Plaintiff was, and is, employed as a Special Product
11 Merchandiser by Defendants and DOES 1 through 100, Inclusive, and each of them, who were
12 also, at all times herein mentioned, Plaintiff's employers, managers and supervisors.

13 8. Beginning in or around December 2010 and continuing to the present time, and
14 continuing, Defendants, and each of them, failed to pay Plaintiff regular wages and/or overtime
15 wages, failed to deduct the required amounts, and failed to provide Plaintiff with the required
16 benefits.

17 9. At all times relevant herein, Plaintiff was employed by Defendants, and each of
18 them, and was non-exempt from the requirements that Plaintiff be paid regular wages and/or
19 overtime for all hours that Plaintiff worked regularly and/or in excess of eight (8) hours in a work
20 day and in excess of forty (40) hours in a work week.

21 10. Defendants, and each of them, violated this law by failing and refusing to keep
22 adequate time records and failing to pay Plaintiff for regular wages and/or overtime worked.

23 11. During the period of Plaintiff's employment with Defendants, and each of them,
24 Plaintiff worked many hours of regular time and/or overtime for which Plaintiff never received
25 compensation.

26 12. As a result of the aforesaid acts of Defendants, and each of them, Plaintiff was
27 denied wages and/or overtime and benefits to which Plaintiff was entitled, all to Plaintiff's damage
28 within the jurisdiction of this Court, subject to proof at the time of trial. Plaintiff claims such

1 amounts as damage, together with prejudgment interest as provided by law.

2 13. As a result of the wrongful acts of Defendants, and each of them, as alleged herein,
3 Plaintiff is entitled to treble damages and additional damages as specifically provided in California
4 Labor Code §§200 et seq., 202, 203 and 206 and any other applicable code section(s).

5 14. As a result of the wrongful acts of Defendants, and each of them, as alleged herein,
6 Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in
7 California Labor Code §§218.5 and 1194(a) and any other applicable code section(s).

8 **II.**

9 **SECOND CAUSE OF ACTION**

10 **(Violation Of California Labor Code §2802 [Failure to Pay/Indemnify]**

11 **Against all Defendants and DOES 1-100, Inclusive)**

12 15. Plaintiff incorporates herein by reference Paragraphs 1 through 14 as though set
13 forth in full herein.

14 16. From December 2010 through the present time, and continuing, Plaintiff was forced
15 to incur charges and pay for such items and articles including, but not limited to, mileage, internet
16 connection(s), supplies, cell phone and cell phone plans and others in order to perform Plaintiff's
17 job duties. Defendants, and each of them, promised to reimburse Plaintiff for these items.

18 17. California Labor Code § 2802 requires that an employer shall indemnify his or her
19 employee for all necessary expenditures or losses incurred by the employee in direct consequence
20 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,
21 even though unlawful, unless the employee, at the time of obeying the directions, believed them to
22 be unlawful.

23 18. Defendants policy and practice of forcing their employces to pay for all the
24 described expenditures is in direct violation of California Labor Code §2802. The charges and/or
25 items and articles incurred by the work-related activities were necessary expenditure(s) incurred by
26 the employee(s) in direct consequence of the discharge of their duties.

27 19. Plaintiff made complaints to Defendants, and each of them, of their insistence that
28 Plaintiff pay for the charges, items and articles.

1 20. By the aforesaid acts and conduct of Defendants, and each of them, Plaintiff has
2 been directly and legally caused to suffer actual damages pursuant to California Civil Code § 3333
3 including, but not limited to, loss of earnings and future earning capacity, medical and related
4 expenses for care and procedures both now and in the future, attorneys fees, and other pecuniary
5 loss not presently ascertained, for which Plaintiff will seek leave of Court to amend when
6 ascertained.

7 21. As a direct and legal result of the acts and omissions of Defendants, and each of
8 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
9 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
10 discomfort and anxiety. The exact nature and extent of said injuries are not known to the Plaintiff,
11 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
12 time know the exact duration or permanence of said injuries, but is informed and believes, and
13 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

14 22. As a further legal result of the acts and omissions of the Defendants, and each of
15 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
16 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
17 she will in the future be forced to incur additional expenses of the same nature, all in an amount
18 which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said
19 expenses at the time of trial.

20 23. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
21 since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
22 believes, and thereon alleges, that Plaintiff will be incapacitated and unable to perform Plaintiff's
23 usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount
24 which is at present unascertained. Plaintiff will pray leave of court to show the total amount of
25 loss of earnings at the time of trial.

26 24. As a further direct and legal result of the acts and conduct of Defendants, as
27 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
28 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,

1 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
2 Plaintiff, who will pray leave of court to assert the same when they are ascertained.

3 25. Plaintiff has been generally damaged in an amount within the jurisdictional limits
4 of this court.

5 26. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
6 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
7 of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of
8 Defendants, and each of them, and DOES 1 through 100, and with the express knowledge, consent,
9 and ratification of managerial agents and employees of Defendants, and each of them, and DOES 1
10 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to
11 be determined at the time of trial.

12 27. As a result of the discriminatory acts of Defendants, and each of them, as alleged
13 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit for enforcement as
14 specifically provided in California Labor Code §2802.

15 28. As a result of the discriminatory acts of Defendants, and each of them, as alleged
16 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
17 provided in California Code Of Civil Procedure §1021.5.

18 III.

19 THIRD CAUSE OF ACTION

20 (Violation Of California Business and Professions Code §17200 (Unfair Business Practices)

21 Against all Defendants and DOES 1-100, Inclusive)

22 29. Plaintiff incorporates herein by reference Paragraphs 1 through 28 of this Complaint
23 as though set forth in full herein.

24 30. California Business and Professions Code §17200 et seq. prohibits unfair business
25 practices by employers including, but not limited to, (1) Failing and refusing to pay employees
26 regular and/or overtime wages in violation of California Labor Code §200 et seq.; and (2) Failing
27 and refusing to pay and/or indemnify an employee for all necessary expenditures or losses incurred
28 by the employee in direct consequence of the discharge of his or her duties.

1 31. By the aforesaid acts and conduct of Defendants, and each of them, has been
2 directly and legally caused to suffer actual damages pursuant to California Civil Code §3333
3 including, but not limited to, loss of earnings and future earning capacity, medical and related
4 expenses for care and procedures both now and in the future, attorney's fees, and other pecuniary
5 loss not presently ascertained, for which plaintiff will seek leave of court to amend when
6 ascertained.

7 32. As a direct and legal result of the acts and omissions of Defendants, and each of
8 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
9 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
10 discomfort and anxiety. The exact nature and extent of said injuries are not known to the plaintiff,
11 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
12 time know the exact duration or permanence of said injuries, but is informed and believes, and
13 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

14 33. As a further legal result of the acts and omissions of the Defendants, and each of
15 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
16 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
17 Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an
18 amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount
19 of said expenses at the time of trial.

20 34. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
21 since said incidents Plaintiff has been unable to engage fully in Plaintiff's occupation, and is
22 informed and believes, and thereon alleges, that Plaintiff will be incapacitated and unable to
23 perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's
24 damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show
25 the total amount of loss of earnings at the time of trial.

26 35. As a further direct and legal result of the acts and conduct of Defendants, as
27 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
28 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,

1 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
 2 Plaintiff, who will pray leave of court to assert the same when they are ascertained.

3 36. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
 4 this court.

5 37. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
 6 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
 7 of the rights, welfare and safety of plaintiff, and were done by managerial agents and employees of
 8 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of
 9 managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the
 10 awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

11 38. As a result of the discriminatory acts of Defendants, and each of them, as alleged
 12 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
 13 provided in California Code Of Civil Procedure § 1021.5 and California Business and Professions
 14 Code §17200 et seq.

15 39. As a result of the discriminatory acts of Defendants, and each of them, as alleged
 16 herein, Plaintiff is entitled to multiple damages as specifically provided in California Business and
 17 Professions Code §17200 et seq.

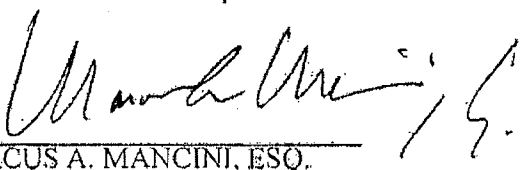
18 **WHEREFORE**, Plaintiff KAREN BARRICK-ALVAREZ, prays for judgment
 19 against the Defendants, and each of them, as follows:

- 20 1. For general damages in an amount within the jurisdictional limits of this
- 21 Court, according to proof;
- 22 2. For medical expenses and related items of expense, according to proof;
- 23 3. For loss of earnings, according to proof;
- 24 4. For loss of earning capacity, according to proof;
- 25 5. For reasonable attorneys' fees and costs of said suit as specifically provided
- 26 in California Code of Civil Procedure §1021.5, according to proof;
- 27 6. For multiple damages and additional damages as specifically provided in
- 28 California Labor Code §§200 et seq., 202, 203 and 206;

7. For reasonable attorneys' fees and costs of said suit as specifically provided in California Labor Code §§218.5, 510 and 1194(a);
8. For damages, penalties and reasonable attorneys' fees and costs of suit as provided for in California Labor Code §§226.7, 512 and 558;
9. For payment and indemnification for all necessary expenditures or losses incurred by Plaintiff in the direct consequence of the discharge of Plaintiff's duties as provided in California Labor Code §2802, according to proof;
10. For reasonable attorneys' fees and costs of said suit as specifically provided in California Business and Professions Code §17200 et seq., according to proof;
11. For multiple damages as specifically provided in California Business and Professions Code §17200 et seq., according to proof;
12. For prejudgment interest, according to proof;
13. For punitive and exemplary damages, according to proof;
14. For costs of suit incurred herein; and
15. For such other and further relief as the court may deem just and proper.

DATED: December 11, 2013

MANCINI & ASSOCIATES
A Professional Law Corporation

By: 
MARCUS A. MANCINI, ESQ.
Attorneys for Plaintiff
KAREN BARRICK-ALVAREZ

SUMMONS (CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT: ACOSTA, INC. which will do
(**AVISO AL DEMANDADO:**) business in California as ACOSTA
SALES AND MARKETING; ACOSTA SALES AND MARKETING;
ACOSTA, INC.; and DOES 1 through 100, Inclusive,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

12/16/2013 at 11:48:00 AM

Clerk of the Superior Court
By Olga Moreno, Deputy Clerk

**YOU ARE BEING SUED BY PLAINTIFF: KAREN BARRICK-ALVAREZ,
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presente su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):
ORANGE COUNTY SUPERIOR COURT
700 Civic Center Drive West
Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso):

30-2013-00692554-

Judge Frederick P. Horn

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Marcus A. Mancini, Esq. SBN 146905 (818) 783-5757 (818) 783-7710
MANCINI & ASSOCIATES
15303 Ventura Boulevard, Suite 600
Sherman Oaks, CA 91403

DATE:

12/16/2013

ALAN CARLSON, Clerk of the Court

Clerk, by

(Secretario)

Olga Moreno

Deputy

(Adjunto)

Olga Moreno

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

Page 1 of 1

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Marcus A. Mancini, Esq. MANCINI & ASSOCIATES 15303 Ventura Boulevard Suite 600 Sherman Oaks, CA 91403 TELEPHONE NO.: (818) 783-5757 FAX NO.: (818) 783-7710 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 12/12/2013 at 04:01:40 PM Clerk of the Superior Court By Jaime Cordero, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: Santa Ana, CA 92701 CITY AND ZIP CODE: BRANCH NAME: Central		
CASE NAME: BARRICK-ALVAREZ v. ACOSTA		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	CASE NUMBER: 30-2013-00692554-CU-06-CJC JUDGE: DEPT: Judge Frederick P. Horn

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Three (3)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 11, 2013

Marcus A. Mancini, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

EXHIBIT

**SUPERIOR COURT OF CALIFORNIA
ORANGE**

700 W. Civic Center DRIVE

Santa Ana , CA 92702

(657) 622-6878

www.occourts.org

NOTICE OF CASE ASSIGNMENT

Case Number: 30-2013-00692554-CU-OE-CJC

Your case has been assigned for all purposes to the judicial officer indicated below. A copy of this information must be provided with the complaint or petition, and with any cross-complaint that names a new party to the underlying action.

ASSIGNED JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon. Frederick P. Horn	Central Justice Center	C31	(657) 622-6878
Hearing:	Date:	Time:	
JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon.			

[x] ADR Information attached.

SCHEDULING INFORMATION

Judicial Scheduling Calendar Information

Individual courtroom information and the items listed below may be found at: www.occourts.org.

Case Information, Court Local Rules, filing fees, forms, Civil Department Calendar Scheduling Chart, Department phone numbers, Complex Civil E-filing, and Road Map to Civil Filings and Hearings.

Ex Parte Matters

Rules for Ex Parte Applications can be found in the California Rules of Court, rules 3.1200 through 3.1207 at: www.courtinfo.ca.gov. Trials that are in progress have priority; therefore, you may be required to wait for your ex parte hearing.

Noticed Motions

- * The following local Orange County Superior Court rules are listed for your convenience:
 - Rule 307 - Telephonic Appearance Litigants - Call CourtCall, LLC at (310) 914-7884 or (888) 88-COURT.
 - Rule 380 - Fax Filing, Rule 450 - Trial Pre-Conference (Unlimited Civil)
- * All Complex Litigation cases are subject to mandatory Electronic Filing, unless excused by the Court.
- * Request to Enter Default and Judgment are strongly encouraged to be filed as a single packet.

Other Information

Hearing dates and times can be found on the Civil Department Calendar Scheduling Chart.

All fees and papers must be filed in the Clerk's Office of the Court Location address listed above.

Date: 12/12/2013

Jaime Cordero, Deputy Clerk

NOTICE OF CASE ASSIGNMENT

EXHIBIT D

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Marcus A. Mancini, Esq. SBN: 146905 Mancini and Associates 15303 Ventura Blvd. Suite 600 Sherman Oaks, CA, 91403 TELEPHONE NO: (818) 783-5757 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff(s) MR5757-2		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 01/24/2014 at 04:31:00 PM Clerk of the Superior Court By Jaime Cordero, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, 92701 BRANCH NAME: Central Justice Center		
PLAINTIFF/PETITIONER: Karen Barrick-Alvarez DEFENDANT/RESPONDENT: Acosta, Inc., et al		CASE NUMBER: 30-2013-00692554-CU-OE-CJC
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.: X49347 Dept.: C31

(Seperate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
 - I served copies of
 - ☒ summons
 - ☒ complaint
 - ☐ Alternative Dispute Resolution (ADR) package
 - ☒ Civil Case Cover Sheet (served in complex cases only)
 - ☐ cross-complaint
 - ☐ other (specify documents):
 - Party served (specify name of party as shown on documents served):
ACOSTA, INC. which will do business in California as ACOSTA SALES AND MARKETING
 - ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
Becky DeGeorge (Agent for Service of Process)
 - Address where the party was served:
2710 Gateway Oaks Dr, Ste 150N, Sacramento, CA, 95833
 - I served the party (check proper box)
 - ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **1/13/2014** (2) at (time): **02:19 PM**
 - ☐ **by substitute service.** On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____
- ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post box. I informed him or her of the general nature of the papers.
 - ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - ☐ I attached a declaration of diligence stating actions taken first to attempt person service.

EXHIBIT E

PLAINTIFF/PETITIONER: Karen Barrick-Alvarez	CASE NUMBER: 30-2013-00692554-CU-OE-CJC
DEFENDANT/RESPONDENT: Acosta, Inc., et al	

5. c. ☐ by mail and acknowledgment of receipt of service, I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgement of Receipt* and a postage-paid return envelope addressed to me (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. Code Civ. Proc., § 415.40
- d. ☐ by other means (*specify means of service and authorizing code section*):

- ☐ Additional page describing service is attached
6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual
- b. ☐ as a person sued under the fictitious name (*specify*):
- c. ☐ as occupant
- d. ☒ On behalf of (*specify*): **ACOSTA, INC. which will do business in California as ACOSTA SALES AND MARKETING**
- under the following Code of Civil Procedure section:
- | | |
|---|--|
| <input type="checkbox"/> 416.10 (corporation) | <input checked="" type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: **Tyler D'iMaria**
- b. Address: **3436 Foothill Blvd, #144, Glendale, CA, 91214**
- c. Telephone number: **(213) 353-9100**
- d. The fee for service was: **\$85.00**
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: **2006-06**
- (iii) County: **Sacramento**

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: **1 /22/2014**

Tyler D'iMaria

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 700 W. Civic Center DRIVE MAILING ADDRESS: P.O. Box 22014 CITY AND ZIP CODE: Santa Ana 92702 BRANCH NAME: Central Justice Center	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE Jan 30, 2014 ALAN CARLSON, Clerk of the Court By: Sunny Dimas , Deputy
PLAINTIFF: Karen Barrick-Alvarez	
DEFENDANT: Acosta, Inc. which will do business in California as Acosta Sales and Marketing et.al.	
Short Title: Barrick-Alvarez vs. Acosta, Inc. which will do business in California as Acosta Sales and Marketing	CASE NUMBER: 30-2013-00692554-CU-OE-CJC
NOTICE OF HEARING	

Please take notice that a(n), Case Management Conference has been scheduled for hearing on 04/15/2014 at 09:00:00 AM in Department C31 of this court, located at Central Justice Center.

Clerk of the Court, By: S. Dimas, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center DRIVE
Santa Ana 92702

SHORT TITLE: Barrick-Alvarez vs. Acosta, Inc. which will do business in California as Acosta Sales and Marketing

CLERK'S CERTIFICATE OF SERVICE BY MAIL

CASE NUMBER:
30-2013-00692554-CU-OE-CJC

I certify that I am not a party to this cause. I certify that a true copy of the above Notice of Hearing has been placed for collection and mailing so as to cause it to be mailed in a sealed envelope with postage fully prepaid pursuant to standard court practices and addressed as indicated below. The certification occurred at Santa Ana, California, on 01/30/2014. The mailing occurred at Sacramento, California on 01/31/2014.

Clerk of the Court, by: S. Dimas, Deputy

MANCINI & ASSOCIATES
15303 VENTURA BOULEVARD # 600
SHERMAN OAKS, CA 91403

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1800 Century Park East, 8th Floor, , Los Angeles, CA 90067-1501. On February 12, 2014, I served the following document(s) described as: **DEFENDANT ACOSTA, INC.'S NOTICE OF REMOVAL OF CIVIL ACTION FROM STATE COURT**

on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Marcus A. Mancini, Esq.
Timothy J. Gonzales, Esq.
Michael R. Fostakaowsky, Esq.
Meghan E. George, Esq.
MANCINI & ASSOCIATES, APLC
15303 Ventura Boulevard, Suite 600
Sherman Oaks, CA 91403
T: 818.783.5757 / F: 818.783-7710

Attorneys for Plaintiff KAREN
BARRICKK-ALVAREZ

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, CA, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

☐ **BY FACSIMILE:** At approximately _____, I caused said document(s) to be transmitted by facsimile pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was 310.315.8210. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the transmission was complete and without error.

☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility regularly maintained by the overnight service carrier, or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier with delivery fees paid or provided for, addressed to the person(s) served hereunder. (C.C.P. § 1013(d)(e))

☐ **BY HAND DELIVERY:** I delivered such envelope(s) by hand to the office of the addressee(s). (C.C.P. § 1011(a)(b))

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 12, 2014, at Los Angeles, CA.


Roland Morrisette

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge James V. Selna and the assigned
Magistrate Judge is Douglas F. McCormick.

The case number on all documents filed with the Court should read as follows:

8:14-cv-00209-JVS(DFMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 12, 2014

Date

By APEDRO
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☒ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Karen Barrick-Alvarez	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) Acosta, Inc.
(b) County of Residence of First Listed Plaintiff <u>Los Angeles (CA)</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant <u>Duval County (FL)</u> (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Mancini & Associates, A Professional Law Corporation Marcus A. Mancini (SBN146905); Timothy Gonzalez (SBN 234923) 15303 Ventura Blvd, Ste 600, Sherman Oaks, CA 91403; 818-783-5757	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. McGuireWoods LLP; Michael D. Mandel (SBN 216934); Christopher Killens (SBN 254466) 1800 Century Park East, 8th Fl.; Los Angeles, CA 90067 Tel: 310-315-8200

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES —For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border: none;"> <tr> <td style="width:33%; border: none;">Citizen of This State</td> <td style="width:10%; border: none; text-align: center;">PTF</td> <td style="width:10%; border: none; text-align: center;">DEF</td> <td style="width:33%; border: none;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%; border: none; text-align: center;">PTF</td> <td style="width:10%; border: none; text-align: center;">DEF</td> </tr> <tr> <td style="border: none;"><input checked="" type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1</td> <td style="border: none;"><input type="checkbox"/> 4</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Citizen of Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;">Incorporated and Principal Place of Business in Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input checked="" type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;">Foreign Nation</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF																																
<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	<input type="checkbox"/> 4																																
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																																
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 5																																
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																																
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 6																																

IV. ORIGIN (Place an X in one box only.) <input type="checkbox"/> 1. Original Proceeding <input checked="" type="checkbox"/> 2. Removed from State Court <input type="checkbox"/> 3. Remanded from Appellate Court <input type="checkbox"/> 4. Reinstated or Reopened <input type="checkbox"/> 5. Transferred from Another District (Specify) <input type="checkbox"/> 6. Multi-District Litigation
--

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$**

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. Sections 1332, 1441 and 1446

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/Etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org. <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property TORTS <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions TORTS <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 American with Disabilities-Employment <input type="checkbox"/> 446 American with Disabilities-Other <input type="checkbox"/> 449 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405 (g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405 (g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY:

Case Number:

CV-71 (11/13)

CIVIL COVER SHEET

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input checked="" type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input checked="" type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Southern

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed in **this court** and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in **this court** that are related to the present case? ☐ NO ☒ YES

If yes, list case number(s): CV-11-01796 GAF (OPx); CV-14-180-DOC (JRPx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): _____

DATE: February 12, 2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))